Evening Telegraph

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WEDNESDAY, OCTOBER 27, 1869.

THE SUITS AGAINST THE CITY FOR DAMAGES ARISING FROM THE DROUTH.

We have received a pamphlet copy of an "Opinion of counsel on the liabilities of the City of Philadelphia to the Schuylkill Navigation Company, and to Boatmen and Shippers, for damages caused by the action of the city in stopping the navigation of Fairmount Pool in August and September, 1869." The able lawyers whose names are appended to this document-R. C. McMurtrie and W. Strong-do not state by whom they were employed, but the conclusions they have reached plainly indicate they are in the service of the Schuylkill Navigation Company. The law and the facts, as they expound them, are all in favor of that corporation. It cannot be sued, say the counsel, by boatmen or shippers for damages arising from the delays in transportation during the drouth; but, on the other hand, the city of Philadelphia is liable to the boatmen and shippers, individually, as well as to the company. It is even claimed that the 21st section of the charter of this corporation entitles it to recover from the city "double the damages" it has sustained; and Philadelphia is threatened not only with this extortionate demand, but with innumerable suits, based on the opinion that "the shippers, as well as the boatmen, must resort to the city, and each must sue for himself."

Under these circumstances it behoves the City Fathers to see whether a valid defense to this ravenous raid upon the impoverished treasury of a tax-burdened community cannot be discovered. The ablest lawyers should be employed, with instructions to make not only a determined resistance to the proposed demands, but to probe to the bottom the pretensions on which they are based. It may perhaps be found, when the whole subject is considered, that, despite the opinion of the company's lawyers, a million of people have certain rights as riparian proprietors which are not wholly unworthy of the respect of judges and juries.

If the city is to be pushed to the wall, we trust that no defense will be deemed complete until every point connected with its contract with the company, and with the alleged rights and privileges of the latter, is thoroughly examined.

The whole claim for damages rests on the stoppage of the navigation of Fairmount pool, or that portion of the river embraced between Fairmount dam and the Falls of an expenditure on the part of the city, in con- of other nations. structing the Fairmount dam. The municipal history of this transaction is substantially that when Councils resolved in April, 1819, to erect water-power works at Fairmount, the Schuylkill Navigation Company had built their canal from Pottsville to the Falls of Schuvlkill, where want of funds had compelled them to stop the work, and that the committee resolved to erect a dam at Fairmount with the design of benefitting the company as well as increasing the water supplies of Philadelphia. They not only extended a helping hand in this manner, but we are told that they entered into an agreement "for the purchase of the water-power at the Falls of Schuylkill destroyed by backing the water by the new dam," and "also with the Schuylkill Navigation Company for the use of the water granted to them by their charter." The city has therefore a double claim to the surplus water supplies of Fairmount pool. She created them by erecting the dam at Fairmount, and bought the right to maintain them by compensating the owners of land adjacent to the falls for the loss of water-power. If she consented, in an evil hour, to an abridgement of the use of her own property, there is no court in Christendom which will not at least lend a willing ear to any plausible excuse or defense she may offer for a temporary violation of her

extended generous aid. If the canal company, instead of the city, was the defendant in the proposed suit, it would need no better plea than that which similar corporations have successfully made in this Commonwealth-that it should not be held responsible for an act of Providence. When defective canal dams have been swept away by a freshet, carrying ruin on every side, the claimants for damages have been defeated by this potent argument; and it remains to be seen whether the people of a great city will not be declared guiltless for using something more than the prescribed quantum of reserved water supplies, created by their own means, during the providential prevalence of the most stringent drouth that has ever been known.

stipulations with the corporation to which she

It is also a legitimate subject of inquiry whether the whole theory on which the alleged exclusive rights and privileges of the canal company is based is not fallacious. In some countries, and in some portions of the Union, it would be considered an unwarrantable infringement of the rights of the citizens of Philadelphia as riparian proprietors, and it remains to be seen whether the apparent advantages derived by the company from judicial decisions and legislation peculiar to this State have an impregnable foundation. It may turn out that the corporation has no right whatever to restrict the city, at any time, from using as much of the water collected at

Fairmount dam as she pleases. When the original contract between the city and the company was made, the amount

of water used by the canal was comparatively limited, and one of the causes of the occasional scarcity must be sought in the enlargement of the canal without a corresponding increase in its facilities for garnering up water to be used in times of drouth. It is questionable whether the city has not good cause for action against the company on this ground. If there is no limit to its powers in this direction, it is difficult to affix bounds to the injuries it may inflict upon the existing water-works. At one time, we believe, a project was under consideration to construct large reservoirs near the headwaters of the Schuylkill, to collect immense bodies of water, sufficient to supply all the necessities of the company as well as the city, in seasons of the greatest scarcity; but this project was abandoned mainly because the co-operation of the company could not be secured. If it can be shown that the company is itself in fault, by failing to adopt proper precautions against a drouth, this consideration will tell powerfully in favor of the city, and it will incite the injured boatmen and shippers to seek redress from the owners of the canal instead of our overburdened taxpayers.

Questions of fact are also likely to arise. What is the exact amount of damage done, if the city is liable? and was it the action of the city alone that caused a suspension of operations in August and September? Here is a wide field of investigation, and in examining it many points useful to the defense of the municipality may be discovered.

MINISTER McMAHON ON LOPEZ.

WHILE the bravery of Lopez in defending himself against tremendous odds has won him deserved praise, the outrageous cruelty with which he has been charged has prevented him from having that sympathy that is usually accorded to the weakest party in such a contest. Lopez's side of the question, it should be remembered, has not been heard; and although many of the accusations against him appear to be too well substantiated for denial, it is nothing more than fair that he should have the ear of the civilized nations of the world to make such explanations as will exonerate him if possible. General McMahon, our late Minister to Paraguay, is now in Washington, and he speaks in warm terms of praise of the valor and generalship displayed by the Paraguayans, and he condemns many of the actions of the allies. The late Minister to Paraguay represents Lopez to be possessed of rare administrative abilities, and not more cruel in the conduct of the war than the most complaining of the allied generals. This is, of course, very general language, but it is worthy of attention. The London Saturday Review, in a recent notice of Mr. Masterman's book on Paraguay, remarks that, according to that gentleman's own statements, he and the other English and American residents got themselves into trouble through their own wilful indiscretion, leaving out of the question any criminal intentions on their part. Englishmen, and Americans too, are disposed to treat such people as the Paraguayans as only half-civilized, and as therefore not enti-Schuylkill. It is a curious fact that this por- tled to any of the respect that they are comtion of the river was only made navigable by | pelled to show towards the governing powers

An Englishman will deliberately violate law and custom in China, Paraguay, Mexico, and other countries that he chooses to consider outside the pale of civilization, and consider himself the aggrieved party if his conduct is resented. He would not dare to attempt anything of the same kind in France, Germany, Russia, or the United States, and would receive no sympathy if he did attempt it and got into trouble thereby. But, placed in contact with a race that he esteems to be inferior, and that possesses but little power or political influence, he does not hesitate to show his contempt for them on every occasion, and to consider any infringement of his liberty as a national insult. There is a great deal of truth in this, and it is not at all improbable that it furnishes the key to the mystery that surrounds the conduct of Lopez towards Messrs. Washburn, Masterman, Bliss. and others who fell under his suspicion or displeasure.

The accounts furnished with regard to the slaughter by Lopez of some of his own kinsmen and other Paraguayans are so circumstantial that it is scarcely possible not to credit them, especially as they are in full accordance with the traditional Paraguayan policy, and General McMahon will have to be more particular in his explanations before he can relieve Lopez from the odium that now rests upon him. General McMahas confidence in the ultimate triumph of the Paraguayans, and he states that Lopez contemplates the restoration of prosperity to his country by emigrants from the United States, to whom he will offer inducements by grants of land to settle there. If the future prosperity of Paraguay is to depend upon emigration from this country, it has but a poor prospect before it. Some disgusted rebels who would not live under the Government of the United States tried Brazil, and were glad to get back very shortly under the stars and stripes again, and the number who will be tempted by all the acres in Paraguay to put themselves under the rule of a man of Lopez' reputation is exceedingly limited.

OUR MINISTERS.

Cost of Diplomatic Service to the United Cost of Diplomatic Service to the United States.

In an editorial on the salaries paid to our foreign Ministers, the New York Times remarks:—

If we compare the salaries paid to American and English foreign Ministers, the contrast will undoubtedly seem to confirm demands of the kind which have been commonly attributed lately to Mr. Washburne. Our Minister to Russia, for example, receives \$12,000 a year. The English Minister at the same Court is paid altogether \$45,000, at the gold standard. The British Government also keep up a staff of Secretaries, each of them well paid, whereas the work at the American Legation is done by one. Our Minister at Belgium gets \$7500 a year—the salary of the English Minister is \$20,000. For our Austrian Legation we pay a total sum of \$13,500, including the salary of the Minister. The Embassy kept up by England costs that Government \$25,000. The American Legation in England costs \$21,625. The English Embassy at Washington is maintained at an expense of \$37,255. Our French Legation entails upon the Government a charge of \$21,625. The corresponding

charge to the English Government is \$69,725. It may fairly be doubted whether the latter sum is not more than any Legation can possibly be worth.

We pay more to ministers at south American republics than England, but, on the other hand, England keeps up expensive embassies in Eastern counties, where we have none, or they are kept within moderate compass. Take Persia as a case in point. England keeps up at the Shah's Court a minister, three secretaries, a translator, and a physician, at a total cost of \$39,500. We keep no official whatever in that country. Taken as a whole, England spends a vast sum for her diplomatic service in excess of the expenditures for similar purposes authorized by our Government. But she is no better served than we are. When did her foreign Ministers ever prevent a war? The Copsuls are the men who do the hard work, and they are by no means liberalle paid. English Ministers abroad have hitherto been remunerated on a scale which a people's Parliament will not sanction very long. We may expect to see a general cutting down of expenses there rather than an increase here. It has not been proved that our Ministers are, as a rule, inadequately paid, and it is no disparagement to some of them to assert that they would fall to earn an equally large income in any other career. The case for raising their salaries has not been made out, and the people are likely to defer all further consideration of it until the taxes are very considerably reduced.

SPECIAL NOTICES. For additional Special Notices see the Inside Pages,

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> BY R. J. DE CORDOVA. Subject-"OUR NEW CLERGYMAN,"

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Nov. 29, HON. S. S. COX; Dec. 1, HON. CHARLES SUMNER; Dec. 3, REV. ROBERT COLLYER; Dec. 7, MARK TWAIN; Dec. 9, R. J. DE CORDOVA; Dec. 16, WENDELL PHILLIFS.

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ABSTRACT OF THE REPORT OF THE CONDITION OF THE NATIONAL BANK OF THE REPUBLIC, OF PHILADELPHIA, made to the Comproller of the Currency, as shown by its books at the close of business on the 9th day of October, 1869:-RESOURCES.

Loans and Discounts.....\$1,171,415-56 United States Bonds deposited with Tressurer of the Uni-500,000-00 ted States..... 132,121-10 \$1,944,536.66 Legal-tender Notes and Cer-tificates...... National Bank Notes...... Fractional Currency and

7,949-19 Stamps..... Expenses and Taxes..... \$2,760,100.07 LIABILITIES. \$1,000,000:00 417,500 00

1,268,848 91 73.751-16 Total.....\$2,760,160 07 JOSEPH P. MUMFORD, Cashier. Philadelphia, October 15, 1869. 10 is mwf6t

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